

STANDARD CONDITIONS OF SALE

1. **INTERPRETATION**
- 1.1 Definitions. In these Conditions, the following definitions apply:
  - Business Day:** a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.
  - Conditions:** these terms and conditions as amended from time to time in accordance with clause 16.9.
  - Contract:** the contract between the Supplier and the Customer for the supply of Products and/or Services in accordance with these Conditions.
  - Customer:** the person or firm who purchases the Products and/or Services from the Supplier.
  - Delivery Location:** has the meaning set out in clause 4.1.
  - Force Majeure Event:** has the meaning given to it in clause 16.1(a).
  - Goods:** the goods (or any part of them) supplied by or on behalf of the Customer to be packaged in accordance with the Order.
  - Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
  - Materials:** any packaging materials supplied by or on behalf of the Customer to the Supplier to enable the Supplier to perform the Services.
  - Order:** the Customer's order for the supply of Products and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of the Supplier's quotation, as the case may be.
  - Products:** products produced as a consequence of the packaging Services rendered under the Contract, including any experimental work.
  - Product Specification:** any specification for the Products that is agreed by the Customer and the Supplier as set out in the Order.
  - Services:** the packaging services supplied by the Supplier to the Customer as set out in the Order.
  - Supplier:** Wasdell Packaging Limited registered in England and Wales with company number 00956939.
  - Supplier Materials:** all materials provided by the Supplier as opposed to the Goods and Materials supplied by the Customer.
- 1.2 Construction. In these Conditions, the following rules apply :
  - (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
  - (b) a reference to a party includes its personal representatives, successors or permitted assigns;
  - (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
  - (d) any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
  - (e) a reference to **writing** or **written** includes faxes and e-mails.
2. **BASIS OF CONTRACT**
- 2.1 The Order constitutes an offer by the Customer to purchase Products and Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence.
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, verbal or otherwise by or on behalf of the Supplier which is not set out in the Contract.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 Any quotation given by the Supplier shall be deemed an invitation to treat and not constitute an offer, and is only valid for a period of 90 days from its date of issue.
- 2.6 Any price quoted is based on the information supplied by the Customer to the Supplier up to the date of the quotation and is solely for the Services specified in that quotation or in the acknowledgement of order. If the Customer requests the variation of the quantities, time of delivery or changes any specifications for the packaging of the Products as set out in the quotation or acknowledgement of order or if the Materials or Goods are not made available to the Supplier as agreed in the Contract then the Supplier shall be entitled at any time up to the date of the invoice to vary the price quoted to the Customer to take account of any additional costs incurred.
3. **DUTY TO TEST PRODUCTS**
- 3.1 It shall be the duty of the Customer within 5 Business Days of delivery or collection and before using Products for any purposes and before parting with possession of the same, to test and examine Products in every respect and to satisfy itself of their fitness for the purpose for which they are intended to be used. The Customer acknowledges that it is responsible for ensuring that and warrants to the Supplier that the Materials, Goods and Products are sufficient and suitable for the purpose or purposes intended and covenants that the Materials, Goods and Products will be properly used including without limitation in a manner and for purposes for which they are sufficient and suitable.
4. **DELIVERY OF PRODUCTS**
- 4.1 The Supplier shall deliver the Products to the location set out in the Order or such other location as the parties may agree (**Delivery Location**). Where no such Delivery Location is specified in the Order the Customer shall collect the Products from the Supplier's premises at Unit 6-8, Euroway Industrial Estate, Blagrove, Swindon, SN5 8YW or such other location as may be advised by the Supplier before delivery.
- 4.2 Delivery of the Products shall be completed on the Products' arrival at the Delivery Location or, where no such Delivery Location is specified, upon notification by the Supplier to the Customer that the Products are ready for collection.
- 4.3 Any dates quoted for delivery of the Products are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 4.4 If the Customer fails to accept or take delivery of the Products within 3 Business Days of the Supplier notifying the Customer that the Products are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Products:
  - (a) delivery of the Products shall be deemed to have been completed 3 Business Days following the day on which the Supplier notified the Customer that the Products were ready; and
  - (b) the Supplier shall store the Products until delivery takes place, and charge the Customer for all related costs and expenses.
- 4.5 If 30 days after the Supplier notified the Customer that the Products were ready for delivery the Customer has not accepted or taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Products or charge the Customer for any shortfall below the price of the Products.
- 4.6 The Customer shall not be entitled to reject the Products if the Supplier delivers up to and including 10 per cent more or less than the quantity of Products ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Products was delivered.
5. **QUALITY OF PRODUCTS AND SERVICES**
- 5.1 The Supplier warrants that the Services are carried out with reasonable care and skill.
- 5.2 The Supplier warrants that the Products shall:
  - (a) conform with their description and any applicable Product Specification;
  - (b) be free from defects in Supplier Materials and workmanship;
  - (c) be of satisfactory quality.
- 5.3 Subject to clause 5.4, if:
  - (a) the Customer gives notice in writing within 5 Business Days of discovery that some or all of the Products and Services do not comply with the warranty set out in clause 5.1 and 5.2;
  - (b) the Supplier is given a reasonable opportunity of examining such Products; and
  - (c) the Customer (if asked to do so by the Supplier) returns such Products to the Supplier's place of business at the Customer's cost the Supplier shall, at its option, repair or replace the defective Products, or refund the price of the defective Services in full.
- 5.4 The Supplier shall not be liable for the Products' failure to comply with the warranty in clause 5.1 if:
  - (a) the Customer makes any further use of such Products after giving a notice in accordance with clause 5.3;
  - (b) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage conditions;
  - (c) the Products differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.5 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 5.1.
- 5.6 The terms of these Conditions shall apply to any repaired or replacement Products supplied by the Supplier under clause 5.3.
6. **TITLE AND RISK**
- 6.1 The risk in the Goods and Materials shall remain with the Customer from the time at which they are delivered to the Supplier and the Customer is responsible for insuring the same.
- 6.2 Title to the Products shall not pass to the Customer until the Supplier has received payment in full (in cleared funds) for:
  - (a) the Supplier Materials and Services provided; and
  - (b) any other goods that the Supplier has supplied to the Customer in respect of which payment has become due.

**7. CUSTOMER'S OBLIGATIONS**

7.1 The Customer shall:

- (a) ensure that the terms of the Order and (if submitted by the Customer) the Product Specification are complete and accurate;
- (b) carry out any necessary testing of the Products in accordance with clause 3;
- (c) ensure that all requirements applicable to the Contract, whether statutory, regulatory, municipal and/or otherwise howsoever, are duly complied with. It shall be a condition precedent to the performance by the Supplier of its obligations under the Contract that all necessary licences, permits and consents shall have been obtained by the Customer.

7.2 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 7.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

**8. CHARGES AND PAYMENT**

8.1 The price for the Products and/or Services shall be the price set out in the Order, payable in Pounds Sterling (unless otherwise specified) except that:

- (a) all amounts payable by the Customer under the Contract are exclusive of value added tax chargeable from time to time (VAT);
- (b) 3 months after the Customer has been informed that a specific quantity of Supplier Materials has been purchased, and if those Supplier Materials remain on stock, the Supplier reserves the right to invoice the Customer for the cost of the Supplier Material together with any associated disposal and/or storage costs;
- (c) the price is ex works (unless otherwise specified) and exclusive of all costs and charges of transport and delivery of the Products;
- (d) the price is exclusive of any experimental work (or otherwise) carried out at the Customer's request not included in the Order; and
- (e) the price is exclusive of any additional costs or charges incurred by the Supplier, including but not limited to:
  - (i) QP Release for Sale
  - (ii) Regulatory Work/Annual Product Review
  - (iii) Amendments to Master Batch Records
  - (iv) Export packing
  - (v) Component/product disposal costs
  - (vi) Storage costs

8.2 In respect of Products, the Supplier shall invoice the Customer on or at any time after completion of the order.

8.3 The Customer shall pay each invoice submitted by the Supplier:

- (a) By the end of the month following the date of the invoice (net monthly) and
- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and
- (c) time for payment shall be of the essence of the Contract.

8.4 Where payment is agreed to be made by instalments, any delay or default by the Customer in making payment in respect of any one instalment shall render all the remaining instalments due forthwith, and interest will be charged in accordance with clause 8.5 with immediate effect until the date of actual payment.

8.5 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount in accordance with Late Payment of Commercial Debts (Interest) Act 1998 accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.

8.6 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

**9. INTELLECTUAL PROPERTY RIGHTS**

9.1 All Intellectual Property Rights in or arising out of or in connection with the Services including any experimental work requested by the Customer shall be owned by the Supplier.

9.2 All Supplier Materials are the exclusive property of the Supplier. In particular, any tools produced for the purposes of providing the Services shall at all times remain the property of the Supplier who will be responsible for maintaining the same, whether or not the Customer shall be charged for such tooling.

9.3 All Intellectual Property Rights in the Goods and Materials, and subject to clause 9.1 the Products, supplied by the Customer, shall remain the property of the Customer at all times.

**10. CUSTOMER PROPERTY**

10.1 All Goods, Materials and other property supplied to the Supplier by or on behalf of a Customer will be held by the Supplier at the Customer's risk and the Supplier shall have no responsibility in respect thereof. Where Goods, Materials and any other property are supplied to the Supplier for the purpose of the Supplier applying any process thereto the Supplier will use its reasonable endeavours to obtain results of adequate quality but the Supplier shall have no liability in respect of the loss or destruction of or any damage to such Goods, Materials or other property caused through defects in the same. Where the Supplier applies any process to the Goods, Materials or other property the Supplier shall have no liability of any kind whatsoever to the Customer for any loss or wastage caused otherwise than by way of defects in the same provided this does not exceed 10 per cent of the quantity supplied.

**11. CONFIDENTIALITY**

Either party (the Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by the other party, its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 11 shall survive termination of the Contract by 5 years.

**12. LIMITATION OF LIABILITY**

12.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;

12.2 Subject to clause 12.1:

- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Contract as indicated on the Order.

12.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

12.4 This clause 12 shall survive termination of the Contract.

**13. INDEMNITY**

13.1 The Customer shall indemnify the Supplier against all actions, costs, claims, demands, damages, liabilities and expenses whatsoever and howsoever arising or arisen, together with any interest and any VAT thereon, in relation to any claim or action for infringement of any intellectual property rights and/or for unauthorised use of any confidential information and/or for passing off, in each case whether actual or alleged or by reason of the inclusion in any Goods, Materials or Products of any illegal or libellous matter or anything which may contravene the Medicines Act 1968/1983, the Health and Safety at Work Act 1974 or the Materials and Articles in Contact with Food Regulations 2012 (including any legal updates as applicable) or any other statute or regulation affecting the Goods, Materials or Products.

13.2 The Customer shall indemnify the Supplier in full against any liability whatsoever (but excluding any liability based on the negligence of the Supplier, its employees or agents) which it may incur resulting from any claim made against the Supplier by any third party including without limitation any employee or agent of the Customer or any subsequent buyer or hirer or other bailee of Products in respect of any matter for which liability to the Customer is excluded by the foregoing provisions of clause 12, and further in respect of any liability to any third party imposed on the Supplier in respect of the Products and/or the Goods by virtue of Part I Consumer Protection Act 1987.

14. **TERMINATION**

14.1 Without limiting its other rights or remedies, the Supplier may terminate the Contract wholly or partly with immediate effect by giving written notice to Customer if:

- (a) the Customer commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 7 days after receipt of notice in writing of the breach;
- (b) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company);
- (e) the Customer (being an individual) is the subject of a bankruptcy petition or order;
- (f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);
- (g) a floating charge holder over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- (i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.1(b) to clause 14.1(h) (inclusive);
- (j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (k) the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

14.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract:

- (a) by giving the Customer 1 months' written notice;
- (b) with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

14.3 Without limiting its other rights or remedies, the Supplier shall have the right to suspend the supply of Services or all further deliveries of Products under the Contract or any other contract between the Customer and the Supplier if:

- (a) the Customer fails to pay any amount due under this Contract on the due date for payment; or
- (b) the Customer becomes subject to any of the events listed in clause 14.1(b) to clause 14.1(k), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

15. **CONSEQUENCES OF TERMINATION OR COMPLETION**

On termination of the Contract for any reason, or completion, as the case may be:

15.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

15.2 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

clauses 11 and 12 which expressly or by implication have effect after termination shall continue in full force and effect.

16. **GENERAL**

16.1 **Force majeure:**

- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Products for more than 4 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

16.2 **Bribery Act:**

The Customer shall comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010

16.3 **Assignment and subcontracting:**

- (a) Subject to appropriate regulatory approval, the Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party, providing that the Supplier's assignee is bound by the same Terms & Conditions.
- (b) The Contract is personal to the Customer and the Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

16.4 **Notices:**

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- (c) This clause 16.4 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

16.5 **Waiver and cumulative remedies:**

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

16.6 **Severance:**

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16.7 **Partnership:**

Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor shall any party represent itself as being the agent of another party for any purpose. Nor shall either party have authority to act as agent for, or to bind, the other party in any way.

16.8 **Third parties:**

A person who is not a party to the Contract shall not have any rights under or in connection with it.

16.9 **Variation:**

Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the parties.

16.10 **Governing law and jurisdiction:**

This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.